



March 18, 2003

ENGROSSED HOUSE BILL No. 1018

DIGEST OF HB 1018 (Updated March 13, 2003 2:13 PM - DI 44)

Citations Affected: IC 6-6; IC 6-9; noncode.

Synopsis: Local taxes. Authorizes counties other than Marion County to adopt a supplemental auto rental excise tax to fund certain capital improvements (Marion County has a supplemental auto rental excise tax under existing law). Repeals the law creating the Knox County innkeeper's tax. Requires Knox County to continue imposing an innkeeper's tax in conformity with the provisions of the uniform innkeeper's tax law.

Effective: July 1, 2003.

Frenz

(SENATE SPONSORS — WATERMAN, HUME)

January 7, 2003, read first time and referred to Committee on Ways and Means.
February 10, 2003, amended, reported — Do Pass.
February 19, 2003, read second time, ordered engrossed. Engrossed.
February 20, 2003, read third time, passed. Yeas 90, nays 0.

SENATE ACTION

February 27, 2003, read first time and referred to Committee on Finance.
March 17, 2003, amended, reported favorably — Do Pass.

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EH 1018—LS 6218/DI 101+



March 18, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1018

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-6-9.8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:
4 **Chapter 9.8. County Supplemental Auto Rental Excise Tax**
5 **Sec. 1. As used in this chapter, "department" refers to the**
6 **department of state revenue.**
7 **Sec. 2. As used in this chapter, "gross retail income" has the**
8 **meaning set forth in IC 6-2.5-1-5, except that the term does not**
9 **include taxes imposed under IC 6-2.5.**
10 **Sec. 3. As used in this chapter, "passenger motor vehicle" has**
11 **the meaning set forth in IC 9-13-2-123(a).**
12 **Sec. 4. As used in this chapter, "person" has the meaning set**
13 **forth in IC 6-2.5-1-3.**
14 **Sec. 5. As used in this chapter, "retail merchant" has the**
15 **meaning set forth in IC 6-2.5-1-8.**
16 **Sec. 6. As used in this chapter, "truck" has the meaning set**
17 **forth in IC 9-13-2-188(a).**

EH 1018—LS 6218/DI 101+



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1 Sec. 7. (a) This chapter applies to any county that does not
2 impose a supplemental auto rental excise tax under IC 6-6-9.7.

3 (b) The county council may adopt an ordinance to impose an
4 excise tax, known as the county supplemental auto rental excise
5 tax, upon the rental of passenger motor vehicles and trucks in the
6 county for periods of less than thirty (30) days.

7 (c) The ordinance must specify that the tax expires on or before
8 a specific date not to exceed thirty (30) years after the date of
9 adoption of the ordinance.

10 (d) The county supplemental auto rental excise tax that may be
11 imposed upon the rental of a passenger motor vehicle or truck
12 equals five percent (5%) of the gross retail income received by the
13 retail merchant for the rental.

14 (e) If a county council adopts an ordinance under subsection (b),
15 the county council shall immediately send a certified copy of the
16 ordinance to the commissioner of the department.

17 (f) If a county council adopts an ordinance under subsection (b)
18 before June 1, the county supplemental auto rental excise tax
19 applies to auto rentals after June 30 of the year in which the
20 ordinance is adopted. If the county council adopts an ordinance
21 under subsection (b) after May 31, the county supplemental auto
22 rental excise tax applies to auto rentals after the last day of the
23 month in which the ordinance is adopted.

24 Sec. 8. (a) The rental of a truck is exempt from the county
25 supplemental auto rental excise tax if the declared gross weight of
26 the rented truck exceeds eleven thousand (11,000) pounds.

27 (b) The rental of a passenger motor vehicle or truck by a funeral
28 director licensed under IC 25-15 is exempt from the county
29 supplemental auto rental excise tax if the rental is part of the
30 services provided by the director for a funeral.

31 (c) The temporary rental of a passenger motor vehicle or truck
32 is exempt from the county supplemental auto rental excise tax if
33 the rental is:

- 34 (1) made or reimbursed under a contract or an agreement
35 between a provider and person given for consideration over
36 and above the lease or purchase price of a motor vehicle that
37 undertakes to perform or provide repair or replacement
38 service, or indemnification for that service, for the
39 operational or structural failure of a motor vehicle due to a
40 defect in materials or skill of work or normal wear and tear;
41 (2) made or reimbursed under a contract for mechanical
42 breakdown insurance;



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- 1 (3) made or reimbursed under a contract for automobile
 2 collision insurance or automobile comprehensive insurance
 3 that covers the temporary lease of a vehicle to the person after
 4 the person's vehicle is damaged or destroyed in a collision; or
 5 (4) otherwise provided to a person as a replacement vehicle:
 6 (A) while the person's vehicle is repaired or serviced due
 7 to a defect in materials or skill of work, normal wear and
 8 tear, or other damage; or
 9 (B) until the person permanently replaces a vehicle that
 10 has been destroyed.

11 **Sec. 9.** The person that rents a passenger motor vehicle or truck
 12 is liable for the county supplemental auto rental excise tax. The
 13 person shall pay the tax to the retail merchant as a separate
 14 amount added to the consideration for the rental. The retail
 15 merchant shall collect the tax as an agent for the state.

16 **Sec. 10. (a)** Except as otherwise provided in this section, the
 17 county supplemental auto rental excise tax shall be imposed, paid,
 18 and collected in the same manner that the state gross retail tax is
 19 imposed, paid, and collected under IC 6-2.5.

20 (b) Each retail merchant filing a return for the county
 21 supplemental auto rental excise tax shall indicate in the return:

- 22 (1) all locations in the county where the retail merchant
 23 collected county supplemental auto rental excise taxes; and
 24 (2) the amount of county supplemental auto rental excise taxes
 25 collected at each location.

26 (c) The return to be filed for the payment of the county
 27 supplemental auto rental excise tax may be a separate return,
 28 combined with the return filed for the payment of the auto rental
 29 excise tax under IC 6-6-9, or may be combined with the return filed
 30 for the payment of the state gross retail tax, as prescribed by the
 31 department.

32 **Sec. 11. (a)** All revenues collected from the county supplemental
 33 auto rental excise tax shall be deposited in a special account of the
 34 state general fund called the county supplemental auto rental
 35 excise tax account.

36 (b) On or before the twentieth day of each month, all amounts
 37 held in the county supplemental auto rental excise tax account shall
 38 be distributed to the county.

39 (c) The amount to be distributed to the county equals the total
 40 county supplemental auto rental excise taxes that were initially
 41 imposed and collected from within the county. The department
 42 shall notify the county auditor of the amount of taxes to be



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distributed to the county.

(d) All distributions from the county supplemental auto rental excise tax account shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the county.

(e) Taxes distributed to the county under this section must be used for the following:

(1) To finance, construct, acquire, improve, renovate, remodel, or equip buildings, facilities, or improvements that will be of general public benefit or welfare and will promote the cultural, recreational, public, or civic well-being of the community. This includes the land comprising the site, costs related to the demolition of existing buildings, equipment, heating and air conditioning facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, other structures, facilities, appurtenances, materials, and supplies that are necessary to make any building, facility, or improvement suitable for the use for which it was constructed, and any other reasonably related costs.

(2) To repay bonds issued or leases entered into for the purposes described in subdivision (1).

(f) The county council must approve an expenditure of taxes distributed to the county under this section.

SECTION 2. IC 6-9-5 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 3. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies to a county that imposed an innkeeper's tax under the authority of any statute other than IC 6-9-18 before January 1, 2003.

(b) If a statute authorizing a county's innkeeper's tax is repealed by this act, the county shall continue to impose an innkeeper's tax under the authority of IC 6-9-18.

(c) Beginning July 1, 2003, IC 6-9-18 applies to the imposition, collection, and remittance of innkeeper's taxes in a county described in subsection (b).

(d) Beginning July 1, 2003, the maximum permitted rate of the innkeeper's tax in a county described in subsection (b) is the rate set forth in IC 6-9-18-3. An ordinance increasing the rate of the county's innkeeper's tax must specify the date on which the new tax rate will take effect, as required under IC 6-9-29-1.5.

(e) Beginning July 1, 2003, a tourism commission established in a county described in subsection (b) shall operate under the authority of IC 6-9-18. A member of the commission serving on

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1 **July 1, 2003, is authorized to serve the remainder of the member's**
2 **term. Upon the completion of the member's term, the position must**
3 **be filled as provided in IC 6-9-18.**

4 **(f) Beginning July 1, 2003, a tourism promotion fund or other**
5 **fund established for the deposit of county innkeeper's taxes in a**
6 **county described in subsection (b):**

7 **(1) must be administered under IC 6-9-18; and**

8 **(2) may be used only for the purposes authorized in IC 6-9-18.**

9 **(g) This SECTION expires January 1, 2005.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1018, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1018 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred House Bill No. 1018, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-6-9.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9.8. County Supplemental Auto Rental Excise Tax

Sec. 1. As used in this chapter, "department" refers to the department of state revenue.

Sec. 2. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5, except that the term does not include taxes imposed under IC 6-2.5.

Sec. 3. As used in this chapter, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).

Sec. 4. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 5. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 6. As used in this chapter, "truck" has the meaning set forth in IC 9-13-2-188(a).

Sec. 7. (a) This chapter applies to any county that does not impose a supplemental auto rental excise tax under IC 6-6-9.7.

(b) The county council may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days.

(c) The ordinance must specify that the tax expires on or before a specific date not to exceed thirty (30) years after the date of adoption of the ordinance.

(d) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals five percent (5%) of the gross retail income received by the retail merchant for the rental.

(e) If a county council adopts an ordinance under subsection (b), the county council shall immediately send a certified copy of the ordinance to the commissioner of the department.

(f) If a county council adopts an ordinance under subsection (b) before June 1, the county supplemental auto rental excise tax

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applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the county council adopts an ordinance under subsection (b) after May 31, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a truck is exempt from the county supplemental auto rental excise tax if the declared gross weight of the rented truck exceeds eleven thousand (11,000) pounds.

(b) The rental of a passenger motor vehicle or truck by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the director for a funeral.

(c) The temporary rental of a passenger motor vehicle or truck is exempt from the county supplemental auto rental excise tax if the rental is:

- (1)** made or reimbursed under a contract or an agreement between a provider and person given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;
- (2)** made or reimbursed under a contract for mechanical breakdown insurance;
- (3)** made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to the person after the person's vehicle is damaged or destroyed in a collision; or
- (4)** otherwise provided to a person as a replacement vehicle:
 - (A)** while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or
 - (B)** until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. The person that rents a passenger motor vehicle or truck is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is

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imposed, paid, and collected under IC 6-2.5.

(b) Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

- (1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and
- (2) the amount of county supplemental auto rental excise taxes collected at each location.

(c) The return to be filed for the payment of the county supplemental auto rental excise tax may be a separate return, combined with the return filed for the payment of the auto rental excise tax under IC 6-6-9, or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department.

Sec. 11. (a) All revenues collected from the county supplemental auto rental excise tax shall be deposited in a special account of the state general fund called the county supplemental auto rental excise tax account.

(b) On or before the twentieth day of each month, all amounts held in the county supplemental auto rental excise tax account shall be distributed to the county.

(c) The amount to be distributed to the county equals the total county supplemental auto rental excise taxes that were initially imposed and collected from within the county. The department shall notify the county auditor of the amount of taxes to be distributed to the county.

(d) All distributions from the county supplemental auto rental excise tax account shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the county.

(e) Taxes distributed to the county under this section must be used for the following:

- (1) To finance, construct, acquire, improve, renovate, remodel, or equip buildings, facilities, or improvements that will be of general public benefit or welfare and will promote the cultural, recreational, public, or civic well-being of the community. This includes the land comprising the site, costs related to the demolition of existing buildings, equipment, heating and air conditioning facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, other structures, facilities, appurtenances, materials, and supplies that are necessary to make any building, facility, or improvement suitable for the use for which it was

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constructed, and any other reasonably related costs.

(2) To repay bonds issued or leases entered into for the purposes described in subdivision (1).

(f) The county council must approve an expenditure of taxes distributed to the county under this section."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1018 as printed February 11, 2003.)

BORST, Chairperson

Committee Vote: Yeas 13, Nays 0.

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